



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: L. Miller

Title: FLEXIBLE PACKAGES HAVING REUSABLE PULL-TAB OPENERS AND METHODS OF USING SAME

Docket No.: 1443.015US2
Filed: October 29, 2003
Examiner: Sameh Tawfik

Serial No.: 10/695,716
Due Date: April 8, 2005
Group Art Unit: 3721

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

We are transmitting herewith the following attached items (as indicated with an "X"):

- ☒ A return postcard.
- ☒ Preliminary Amendment and Response to Restriction Requirement (8 Pages).
- ☒ A check in the amount of \$450.00 to cover the fee for additional claims as calculated below.

If not provided for in a separate paper filed herewith, If an additional fee is required due to changes to the claims, the fee has been calculated as follows:

CLAIMS AS AMENDED						
	(1) Claims Remaining After Amendment		(2) Highest Number Previously Paid For	(3) Present Extra	Rate	Fee
TOTAL CLAIMS	30	-	21	9	x 50.00 =	\$450.00
INDEPENDENT CLAIMS	3	-	4	0	x 200.00 =	\$0.00
MULTIPLE DEPENDENT CLAIMS PRESENTED						\$0.00
TOTAL						\$450.00

Please consider this a PETITION FOR EXTENSION OF TIME for sufficient number of months to enter these papers and please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

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By: Barbara J. Clark
Atty: Barbara J. Clark
Reg. No. 38,107

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 7 day of April, 2005.

CANDIS BUENDING

Name

Signature

S/N 10/695,716

PATENT



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Applicant:	Anne L. Miller	Examiner:	Sameh Tawfik
Serial No.:	10/695,716	Group Art Unit:	3721
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**PRELIMINARY AMENDMENT AND
RESPONSE TO RESTRICTION REQUIREMENT**

MS AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant has reviewed the Restriction Requirement mailed March 8, 2005, wherein the Examiner has restricted the claims to one of the following inventions under 35 U.S.C. 121:

- I. Claims 11-14, drawn to a method for providing an enhanced opening system for a container, classified in class 493, subclass 114.
- II. Claims 15-21, drawn to a method of providing a system of enhanced product removal from a sealed container, classified in class 053, subclass 412.

Applicant hereby elects, with traverse, Group I (claims 11-14) directed to a method for providing an enhanced opening system for a container. If the restriction is continued, the claims of the non-elected invention, i.e., claims 15-21 (Group II) are hereby canceled without prejudice or disclaimer. However, Applicant reserves the right to reintroduce them in one or more continuation or divisional applications at a later date.

The Restriction Requirement is traversed on the basis that restriction requirements are optional in all cases, MPEP 803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it arguably may include claims to distinct or independent inventions MPEP 803. In the present application, since the elected claims (Group I) are closely related to the claims in Group II, it is respectfully submitted that the claims of Group I and II can be efficiently and effectively searched in a single search with no additional burden placed on the Examiner.

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The MPEP also states, in section 803, that not only must the inventions be independent, there must also be a serious burden on the Examiner. However, in this instance, the scope of the search should not vary regardless of which sets of claims are examined. Thus, there is no hardship on the part of the Examiner in performing the search and dealing with all the claims in the prosecution of one application.

In fact, the Examiner originally believed claims 11-21 belonged in the same class, namely class 53 (package making). Applicant agrees that these claims all belong in the same class and subclass. Claims 15-21 directed to a method of providing a system of enhanced product removal from a sealed container appear to fall under class 53 and subclass 412 (package opening device). Claims 11-14 directed to a method for providing an enhanced opening system for a sealed container also appear to belong to this class/subclass.

It is otherwise not readily seen why the claims have been divided in the manner suggested. It is also not readily seen how class 493 (manufacturing container or tube from paper; or other manufacturing from a sheet or web) and subclass 114 (securing) applies fully and only to claims 11-15. Claims 11-15 recite "a sealed container" which, according to the specification, is not limited to paper. Claims 15-21 also recite "a sealed container" not limited to paper. Is the proposed classification a suggestion that the sealed container in claims 11-14 is limited to paper containers while the sealed container in claims 15-21 is not? If so, Applicant respectfully traverses this suggestion and again states that none of the sealed containers are limited to paper only. Class 493 otherwise includes "other manufacturing", *i.e., other than containers*, made from a sheet or web.

Applicant respectfully seeks clarification of the classes and subclasses identified herein and an explanation of how each claim set is viewed to fall into these separate classes and subclasses or otherwise requests that claims 11-14 be additionally or alternatively considered to fall within class 53/subclass 412 and be examined together with claims 15-21.